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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Costa Rica, Denmark, Egypt, Finland, France, Germany, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Kuwait, Liechtenstein, Luxembourg, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Saudi Arabia, Slovenia, Spain, Sweden, Tunisia, Turkey and United States of America: draft resolution

Situation of Human Rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Elimination of All Forms of Racial Discrimination, 3/ the Convention on the Rights of the Child, 4/ the Convention on the Prevention and Punishment of the Crime of Genocide, 5/ the

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1/ Resolution 2106 A (XX), annex.

2/ Resolution 2200 (A) (XXI), annex.

3/ Resolution 2106 A (XX), annex.

4/ Resolution 44/25, annex.

5/ Resolution 260 A (III).

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 6/ the Convention on the Elimination of All Forms of Discrimination Against Women 7/ and other instruments of international humanitarian law, including the Geneva Conventions of 12 August 1949 8/ for the protection of victims of war and the Additional Protocols thereto, of 1977, 9/ as well as the principles and commitments undertaken by the States members of the Conference on Security and Cooperation in Europe,

Gravely concerned at the human tragedy in the territories of the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and at the continuing massive and systematic violations of human rights occurring in the areas of the Republic of Bosnia and Herzegovina under Bosnian Serb control and in areas of the Republic of Croatia under Croatian Serb control,

Recalling its resolution 48/153 of 20 December 1993 and Commission on Human Rights resolution 1994/72 of 9 March 1994 10/ and Security Council resolution 900 (1994) of 4 March 1994, in which the Council called upon all parties to achieve freedom of movement for the civilian population and humanitarian goods to, from, and within Sarajevo,

Recalling specifically Security Council resolutions 808 (1993) of 22 February 1993, 827 (1993) of 25 May 1993 and 855 (1993) of 9 August 1993, in which the Council demanded, inter alia, that all parties and others concerned in the former Yugoslavia immediately cease and desist from all breaches of international humanitarian law, requested the Secretary-General to establish a commission of experts to examine and analyse information relating to serious violations of such law being committed in the territory of the former Yugoslavia and established an International Tribunal for the prosecution of persons responsible for such violations,

Recalling further Security Council resolutions 824 (1993) of 6 May 1993 and 836 (1993) of 4 June 1993, in which the Council declared that Sarajevo, Tuzla, Zepa, Gorazde, Bihać, Srebrenica and their surroundings should be treated as safe areas and that international humanitarian agencies should be given free and unimpeded access to those areas,

Gravely concerned at the situation throughout Bosnia and Herzegovina and the rapidly deteriorating situation in the safe areas of Sarajevo, Tuzla, Gorazde, Zepa, Srebrenica, and in particular the flagrant and blatant violations

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6/ Resolution 39/46 annex.

7/ Resolution 34/180, annex.

8/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

9/ Ibid., vol. 1125, Nos. 17512 and 17513.

10/ See Official Records of the Economic and Social Council, 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A.

of the safe areas of Bihać which has been subject to continued attacks by the Bosnian Serbs and Croatian Serb forces,

Expressing its appreciation for the efforts undertaken by the representatives of the United Nations, the European Union, the United States of America and the Russian Federation to assist the parties in reaching a settlement to the conflict in Bosnia and Herzegovina and the work of the ambassadors of the United States of America, the Russian Federation, the European Union and the United Nations in Zagreb to achieve a cease-fire and eventual resolution of the situation in Croatia, all of which could, if accepted by all parties, lead to a substantial improvement in the human rights situation of members of all ethnic groups in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro),

Noting with appreciation the efforts of the United Nations Protection Force to help to create the conditions for the peaceful settlement of the conflicts in Bosnia and Herzegovina and Croatia, and also noting the obstacles that the United Nations Protection Force in Bosnia and Herzegovina and in the United Nations Protected Areas of Croatia face in the performance of their mandate,

Supporting the declarations signed by Muslim, Catholic and Orthodox religious leaders at the Interfaith Summits convened by the Appeal of Conscience Foundation at Zurich in 1992 and at Istanbul in 1994,

Encouraging the international community, acting through the United Nations and other international organizations as well as bilaterally, to enhance its humanitarian support for the Republic of Bosnia and Herzegovina, the Bosnian Federation and the Republic of Croatia,

Gravely concerned at the human rights violations in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and in particular at those committed in the context of the continuing, odious practice of ethnic cleansing, which is the direct cause of the vast majority of human rights violations there and whose principal victims are the Muslim population, which is threatened with virtual extermination, as well as the Croats and non-Serbs,

Dismayed by the huge number of missing persons still unaccounted for, particularly in Bosnia and Herzegovina and in Croatia,

Deploring the exploitation of ethnic tensions and ultra-nationalistic phenomena for political goals used to foster the war and human rights violations,

Alarmed that the conflict in Bosnia and Herzegovina and in Croatia has also been characterized by the systematic destruction and profanation of mosques, churches and other places of worship, as well as sites of cultural heritage,

Deeply concerned by the situations reflected in the Secretary-General's report on rape and abuse of women in the areas of armed conflict in the former Yugoslavia, 11/ and stressing the need for detailed reporting on this subject,

Encouraging the continuing efforts made in the framework of the International Conference on the Former Yugoslavia to find a peaceful solution,

Welcoming the ongoing efforts of the Conference on Security and Cooperation in Europe to re-establish its presence in the Federal Republic of Yugoslavia (Serbia and Montenegro) in order to prevent further human rights violations, and deeply concerned about the decision of the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) to expel the monitoring missions of long duration of the Conference on Security and Cooperation in Europe and the European Union to Kosovo, Sandjak and Vojvodina, where the human rights situation remains a cause of great concern,

Welcoming also the reconstruction efforts of the European Union, inter alia, through its monitoring missions to promote respect for human rights and fundamental freedoms,

Welcoming further the interim reports and recommendations of the Special Rapporteur on the situation of human rights in the former Yugoslavia, in particular the most recent report, 12/

1. Commends the Special Rapporteur on the situation of human rights in the territories of the successor States of the former Yugoslavia for his reports 13/ and notes that his presence can be a positive factor towards reducing the instances of human rights violations in the region;

2. Expresses its grave concern at the instances of massive and systematic violations of human rights and humanitarian law in parts of the Republic of Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), as described in the Special Rapporteur's reports;

3. Notes with grave concern the Special Rapporteur's conclusions about the impending humanitarian disaster in Bosnia and Herzegovina this winter;

4. Condemns in the strongest terms all violations of human rights and international humanitarian law in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) by all sides to the conflict, recognizing that the leadership in territories under the control of Serbs in Bosnia and Herzegovina and Croatia, the commanders of Serb paramilitary

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11/ A/48/858.

12/ E/CN.4/1994/54.

13/ See S/26383, S/26415 and S/26469; see Official Records of the Security Council, Forty-eighth Year, Supplement for July, August and September 1993, documents S/26383, S/26415 and S/26469; see also A/49/641-S/1994/1252.

forces and political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro) bear primary responsibility for most of those violations;

5. Condemns the continued refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb authorities to permit the Special Rapporteur to conduct investigations in territories under their control;

6. Condemns also the specific violations identified by the Special Rapporteur, most of which are committed in connection with ethnic cleansing by Bosnian Serbs, and which include killings, torture, beatings, arbitrary searches, rape, disappearances, destruction of houses, forced and illegal evictions, detentions and other acts or threats of violence aimed at forcing individuals to leave their homes;

7. Condemns further the indiscriminate shelling and besieging of cities and civilian areas, the systematic terrorization and murder of non-combatants, the destruction of vital services and the use of military force against civilian populations and relief operations, including the use of cluster and napalm bombs on civilian targets by Croatian Serb and Bosnian Serb forces;

8. Welcomes the fact that the proceedings of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 have now begun, and in this context encourages the provision of all resources necessary, including full funding as well as voluntary contributions from States and intergovernmental and non-governmental organizations so that the Tribunal may conduct without any further delay its stipulated functions of trying those accused of and punishing those responsible for violations of international law;

9. Requests States, as a matter of urgency, to make available to the International Tribunal expert personnel, resources and services to aid in the investigation and prosecution of persons accused of having committed serious violations of international humanitarian law;

10. Requests all States, in particular the Federal Republic of Yugoslavia (Serbia and Montenegro), to cooperate, as required under Security Council resolution 827 (1993), with the International Tribunal in providing evidence for investigations and trials and in surrendering persons accused of crimes within the jurisdiction of the Tribunal;

11. Notes that all serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991 are within the jurisdiction of the International Tribunal, and that persons who commit such acts in the context of the existing conflict will be held accountable;

12. Reaffirms that States are to be held accountable for violations of human rights;

13. Expresses its complete support for the victims of those violations, reaffirms the right of all persons to return to their homes in safety and dignity, considers invalid all acts made under duress affecting ownership of property and other related questions, recognizes the right of victims of ethnic cleansing to receive just reparation for their losses, and urges all parties to fulfil their agreements to this end;

14. Condemns all deliberate impedance of the delivery of food, medical and other supplies essential for the civilian population, which can constitute a serious violation of international humanitarian law, and of medical evacuations, and demands that all parties ensure that all persons under their control cease such acts;

15. Also condemns the attacks on and continuous harassment of the United Nations Protection Force and on personnel working with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations, most of which are perpetrated by Bosnian Serb forces;

16. Expresses its outrage that the systematic practice of rape continues to be used as a weapon of war against women and children and as an instrument of ethnic cleansing and recognizes that rape in this context constitutes a war crime;

17. Expresses its serious concern at the prevalence of lawlessness in the Serbian-controlled territories of Croatia and the lack of adequate protection for Croatian and non-Serb populations remaining in the Serb-controlled municipalities where these populations continue to experience physical violence and insecurity, as reported by the Special Rapporteur;

18. Also expresses its serious concern at the violations of humanitarian law committed by local officials in the Federation-controlled areas of Bosnia and Herzegovina, which limit the right to freedom of movement, notably the right of refugees or displaced persons to return to their homes, as reported by the Special Rapporteur;

19. Strongly condemns the increase of police violence against the non-Serb populations in Kosovo, Sandjak, Vojvodina and other areas of the Federal Republic of Yugoslavia (Serbia and Montenegro), and of violations of the right to fair trial, as described in the most recent report of the Special Rapporteur; 14/

20. Strongly urges the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to take appropriate measures to respect fully all human rights and fundamental freedoms and to take urgent action to ensure the rule of law in order to prevent arbitrary evictions and dismissals and discrimination against members of the non-Serb populations in the Federal Republic of Yugoslavia (Serbia and Montenegro);

14/ A/49/641-S/1994/1252.

21. Expresses its grave concern at the deteriorating human rights situation in Sandjak, as noted by the Special Rapporteur, particularly the systematic acts of harassment, beatings, torture, warrantless searches, arbitrary detention and unfair trials directed mainly against members of the Muslim population;

22. Affirms that a peaceful solution, to be achieved through negotiation under the auspices of the International Conference on the Former Yugoslavia, would greatly benefit the human rights situation in the areas concerned;

23. Condemns in particular the violations of human rights and humanitarian law in connection with detention, including killings, torture and the systematic practice of rape, and demands the immediate, internationally supervised release of all persons arbitrarily or illegally detained in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and the immediate closure of all places of detention not authorized by and in compliance with the Geneva Conventions of 12 August 1949; 8/

24. Reiterates its demands that all parties notify immediately the International Committee of the Red Cross of the locations of all camps, prisons and other places of detention within Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and that the International Committee of the Red Cross, the Special Rapporteur and his staff, the United Nations High Commissioner for Refugees, the monitoring and other missions of the European Union and the Conference on Security and Cooperation in Europe and other relevant international and regional organizations be granted immediate, unimpeded and continued access to such places of detention;

25. Urges all parties, and in particular the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), to cooperate with the Working Group on Enforced and Involuntary Disappearances in determining the fate of thousands of missing persons by disclosing information and documentation on inmates in prisons, camps and other places of detention in order finally to locate such persons and alleviate the suffering of their relatives;

26. Urges the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to reconsider its refusal to allow the continuation of the activities of the missions of the Conference on Security and Cooperation in Europe to monitor the human rights conditions in its territory, particulary in Kosovo, Sandjak and Vojvodina, and its refusal to permit the opening of a field office of the Centre for Human Rights as called for by the General Assembly in resolution 48/153;

27. Urges the Secretary-General to take all necessary steps to ensure the full and effective coordination of the activities of all United Nations bodies in implementing the present resolution, and urges those bodies concerned with the situation in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to coordinate closely with the Special Rapporteur and the International Tribunal, and to provide the Special Rapporteur on a continuing basis with all relevant and accurate information in their possession on the situation of human rights in Bosnia and

Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

28. Also urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out his mandate and in particular to provide him with adequate staff based in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to ensure effective continuous monitoring of the human rights situation there and coordination with other United Nations bodies involved, including the United Nations Protection Force,

29. Welcomes the effort by the Governments of Croatia and Bosnia and Herzegovina to uphold human rights in their territories and urges them to fulfil the human rights commitments they have made;

30. Notes with concern that many of the past recommendations of the Special Rapporteur have not been fully implemented, in some cases because of resistance by the parties on the ground, and urges the parties, all States and relevant organizations to give immediate consideration to them, in particular the Special Rapporteur's calls:

(a) For the opening of humanitarian relief corridors to prevent the death and deprivation of the civilian population and to open Tuzla airport to relief deliveries, and for the immediate release of detainees into conditions of safety;

(b) For the provision of necessary medical and psychological care to victims of rape within the framework of programmes to rehabilitate women and children traumatized by war, and for coordination by all concerned in support of the social integration of child victims;

(c) For more generous international assistance to refugees fleeing the conflict, and to the States which receive them;

(d) For increased support to initiatives to assist persons displaced by the conflict, with attention to the special needs of urban families and orphans;

(e) For the creation of a voluntary fund to provide economic and social aid to assist the reconstruction of destroyed villages and towns;

(f) For the attention of the international community to the need for an effective response to counter the policy of ethnic cleansing;

31. Draws attention to the need for an immediate and urgent investigation by qualified experts of a mass grave near Vukovar and other mass grave sites and places where mass killings are reported to have taken place, and requests the Secretary-General, within existing resources, to make available the necessary means for this undertaking;

32. Invites the Commission on Human Rights at its fifty-first session to request the Special Rapporteur to report to the General Assembly at its fiftieth session;

33. Decides to continue its examination of this question at its fiftieth session under the item entitled "Human rights questions".